

Disposition of the Independent Review Panel

Complainant: Blas Galban

Date: October 29, 2004

IRP Case: A 2003.215

MDPD Case: IA 2002-0076



The Independent Review Panel met on September 23 and October 28, 2004 for the purpose of publicly reviewing the complaint made by Blas Galban against the Miami-Dade Police Department and the department's response to that complaint. The following represents the findings of the Panel:

A. Incident

Mr. Galban was headed home about 1 AM on Sunday November 30, 2003. As he was traveling on NW 18 Ave. preparing to turn onto 7 St., he was pulled over by a male MDPD officer.

Mr. Galban stated that, after he exited his vehicle, the officer walked him to the police car and placed him face down on the hood. The officer went through his pockets and removed his wallet from his back pocket. A moment or two later, the officer then returned the wallet and told Mr. Galban to go home. The officer did not cite Mr. Galban or tell him why he was detained. Mr. Galban stated the officer was a Cuban male, however he did not get specific identifying information for the officer or his vehicle.

When Mr. Galban arrived home, he realized \$1,000 was missing from his wallet. He immediately went to MDPD headquarters to report the missing money.

In May 2003, Mr. Galban drove a bus of children to Tropical Park for a "Sports Day" with police officers. There he saw the officer who took his money, serving as first base umpire for a softball game. Mr. Galban later identified the officer as Pedro Polo.

B. Allegations

Mr. Galban alleges that a Miami-Dade police officer removed \$1,000 from his wallet during an undocumented traffic stop.

C. Disposition of the Independent Review Panel

1. The preponderance of the evidence supports the allegation that an unknown police officer removed \$1,000 from Mr. Galban's wallet. The Panel found him credible. Mr. Galban was been consistent every time he talked about the incident and a polygraph examination revealed no evidence of deception.

2. Due to conflicting testimony, there is insufficient evidence to either refute or sustain the allegation that Officer Pedro Polo was the involved officer. Mr. Galban places Officer Polo at NW 18 Ave. and 7 St. “sometime” or “a long time” after 1 AM. The evidence revealed that Officer Polo was at the SR 836 Bird Road Plaza Toll southbound at 1:22 AM and from there he returned to the Hammocks Station. Yahoo! Maps indicate that the Hammocks Station (10000 SW 142 Ave.) is 17.5 miles and approximately 33 minutes from the site of the incident.
3. The photos of Officers Polo and Kahn (Polo’s partner) were not included in the photograph books shown to the complainant on March 31, 2003,” because “the officers’ photographs had been taken recently and were not yet included in the PCB File photograph books.” Officer Polo was employed by MDPD in 1999 and Officer Kahn in 1996. The explanation for the missing photographs does not justify their absence.
4. Sgt. Neymee Sanchez was responsive to Mr. Galban and conducted a thorough, detailed investigation.

D. Recommendation

Commend Mr. Galban for his persistence and active involvement in the investigation and review of his complaint regarding criminal misconduct on the part of a police officer.

The Independent Review Panel concluded the complaint on October 28, 2004.

INDEPENDENT REVIEW PANEL COMMITTEE RECOMMENDATION TO THE PANEL

September 23, 2004 and October 28, 2004

Complaint: A 2003.215

MDPD Case: IA 2003-0076

Accused Party: Miami-Dade Police Department (MDPD), Officer Pedro Polo

Complainant: Blas Galban

Date Complaint Received: July 8, 2003

Materials Reviewed: Grievance Report Form, correspondence, IA File 2003-0076, staff notes, committee notes, audio tape of Mr. Galban's statement to Internal Affairs.

Committee:

Meeting Date: August 5, 2004

Present: Jorge Reynardus, Panel Member; Carol Boersma, Executive Assistant to the Director; Duhamelle Desire, Constructive Conflict Counselor; Sgt. Neymee Sanchez, MDPD Professional Compliance Bureau; Blas Galban, Complainant

Complaint: Mr. Galban alleges that a Miami-Dade police officer removed \$1,000 from his wallet during an undocumented traffic stop.

Mr. Galban stated that he cashed his \$945.00 income tax refund check at Zagami's Supermarket about 9 PM on Saturday, March 29, 2003. He also had about \$500-600 cash from his paycheck. He visited his mother in the hospital and then stopped at the Ayestaran Restaurant located at 706 SW 27 Ave. to eat and have a couple drinks. He headed home about 1 AM (Sunday 3/30/03). As he was traveling on NW 18 Ave. preparing to turn onto 7 St., he was pulled over by a male MDPD officer.

Mr. Galban stated that, after he exited his vehicle, the officer walked him to the police car and placed him face down on the hood. As they were walking, the officer asked him where he works. Mr. Galban replied that he drives a private school bus. The officer asked him if he had "any recent problems." Mr. Galban replied, yes, with a female friend. The officer did not ask for his driver's license or vehicle documents.

While Mr. Galban was face down on the hood of the police car, the officer went through his pockets and removed his wallet from his back pocket. A moment or two later, Mr. Galban lifted himself up to see what the officer was doing. The officer aggressively yelled at him to get down.

Twice the officer said: "I can arrest you." The officer then returned the wallet and told Mr. Galban: "Vaya a dormir (Go sleep)." The officer never told Mr. Galban why he was detained. Mr. Galban stated the officer was a Cuban male, however he did not get specific identifying information for the officer or his vehicle.

When Mr. Galban arrived home, he realized \$1,000 was missing from his wallet. He immediately went to MDPD headquarters to report the missing money. After waiting about 3 hours, he met with Internal Affairs Sgt. Neymee Sanchez and filed a complaint.

In May 2003, Mr. Galban drove a bus of children to Tropical Park for a "Sports Day" with police officers. There he saw the officer who took his money, serving as first base umpire for a softball game. They made eye contact. He immediately called Sgt. Sanchez and left a message for her. Shortly after that, there was a downpour and everybody ran for cover. Mr. Galban parked his bus by the main exit, so he could identify the officer's vehicle as the officer exited. By the time Sgt. Sanchez returned his call about 3 hours later, the officer had already left by a back way, even though he had to go through a lot of standing water. Mr. Galban later identified the officer as Pedro Polo.

Departmental Response: MDPD Internal Affairs Investigation 2003-0076

MDPD investigated two allegations:

1. Officer Pedro Polo stole \$1,000 from Mr. Galban's wallet during a traffic stop.
2. Officer Pedro Polo failed to properly complete a Daily Activity Report on Saturday, March 29, 2003, detailing his overtime activity for that shift.

MDPD Disposition

Allegation # 1: NOT SUSTAINED

Officer Polo denies the allegation. The evidence revealed that Officer Polo was on-duty processing a prisoner at the Turner Guilford Knight (TGK) Correctional Center during the time that the alleged incident occurred. Officer Polo's regular eight-hour shift commenced on Saturday, March 29, 2003, at 4:00 p.m. and due to the overtime prisoner detail, his shift ended on Sunday, March 30, 2003, at 2:00 a.m. Officer Polo performed all of his uniform patrol duties as a two-person unit. His attendance was verified by another officer, as well as the videotape recording of events maintained at TGK, and the records maintained by the Fleet Management Bureau regarding "Non Revenue Account" toll card # 1549.

Based on the statements of the parties involved, and the physical evidence, there is no evidence to support this allegation. Based on the foregoing, the allegation is NOT SUSTAINED.

Allegation #2: SUSTAINED

Officer Polo admits that he failed to properly complete his Daily Activity Report for Saturday, March 29, 2003, detailing his overtime activity for that shift. Based on the foregoing, the allegation is SUSTAINED.

Officer Polo received a Record of Counseling for the sustained allegation.

The Internal Affairs investigation revealed that no officer took a signal regarding the traffic stop on March 30, 2003 and Mr. Galban's tag was not "run." Mr. Galban could not identify the officer from a photo lineup shown to him on March 31, 2003; however he selected five possibilities at the request of Sgt. Sanchez. In May 2003, Mr. Galban looked at a series of police photographs taken at Tropical Park during "Sports Day" and identified Officer Pedro Polo as the officer who stole his money.

Officer Polo was assigned to the Hammocks district on the date of the incident. He also lives in the area. He stated that his regular eight-hour shift commenced on Saturday, March 29, 2003, at 4 PM and, due to an overtime prisoner detail, ended on Sunday March 30, at 2 AM. At 1 AM he was processing a prisoner at the Turner Guilford Knight Center (TGK) with Officer Zubair Khan. TGK video tape and the TGK visitor's Log confirm Officer Polo and Officer Khan's presence in TGK from 12:45 AM to 1:10 AM on March 30, 2003. Officer Khan's toll card was used on 3/30/03 at the Bird Road Toll Plaza (Northbound) at 12:33 AM and at the Bird Road Toll Plaza (Southbound) at 1:22 AM.

Officer Polo denied stopping the complainant and denied being in the area of NW 18 Ave. and 7 St. at the time of the incident. Officer Zubair Khan testified that he was with Officer Polo from approximately 11:35 PM on March 29 to about 2 AM on March 30, and Officer Polo was not in the area of the incident during this time. Officer Kahn testified that he and Officer Polo went directly from TGK to Station 8 (Hammocks).

Sgt. Sanchez was able to verify that Mr. Galban cashed his US Treasury refund check totaling \$945 at Zagami's Supermarket. Mr. Galban submitted to two polygraph exams. The result of the first was "inconclusive," and the second was "no deception indicated."

Committee Discussion: Mr. Galban affirmed that the person he identified as Officer Pedro Polo is the person who removed \$1,000 from his wallet on March 30, 2003. The committee reviewed the evidence in the Internal Affairs (IA) investigation. Sgt. Sanchez pointed out that Mr. Galban said in his statement to her and to the polygraph examiner, that the incident occurred about 1 AM. The toll receipt documents that Officers Polo and Khan were at the SR 826 Bird Road Toll Plaza (southbound) at 1:22 AM.

The committee also noted that the IA investigation documents that the photos of Officers Polo and Kahn "were not included in the [Professional Compliance Bureau] PCB File photograph books that were shown to the complainant on Monday, March 31, 2003," because "the officers' photographs had been taken recently and were not yet included in the PCB File photograph books." Mr. Galban was shown photographs of the two officers on July 29, 2003 and "he did not

identify either of those two officers as the one who stole his money.” On August 15, 2003 Mr. Galban viewed photographs taken on “Sports Day” and identified Officer Pedro Polo as the officer who stole his money.

Staff Remarks: Following the committee meeting, Mr. Galban visited the IRP office. He is convinced that Officer Polo is the officer who took his money and he believes that the Bird Road Toll Receipt does not preclude Officer Polo from being in the area of the incident, because the incident occurred, not “about” 1 AM, but “after” 1 AM. Mr. Galban provided a copy of the tape recording of his statement to Internal Affairs to IRP staff person Carol Boersma, so she could hear specifically what he said regarding the time of the incident. Mr. Galban mentions the time of the incident twice, using the words: “a la una y algo,” and “a la una y algo largo.” (“Some time after 1 AM” and” and “a long time after 1 AM.”)

Committee Findings:

1. The preponderance of the evidence supports the allegation that an unknown police officer removed \$1,000 from Mr. Galban’s wallet. The committee found him credible. Mr. Galban has been consistent every time he talks about the incident and a polygraph examination revealed no evidence of deception.
2. Due to conflicting testimony, there is insufficient evidence to refute or sustain the allegation that Officer Pedro Polo was the involved officer. Mr. Galban places Officer Polo at NW 18 Ave. and 7 St. “sometime” or “a long time” after 1 AM. The evidence revealed that Officer Polo was at the SR 836 Bird Road Plaza Toll southbound at 1:22 AM and from there he returned to the Hammocks Station. Yahoo! Maps indicate that the Hammocks Station (10000 SW 142 Ave.) is 17.5 miles and approximately 33 minutes from the site of the incident.
3. The photos of Officers Polo and Kahn were not included in the photograph books shown to the complainant on March 31, 2003,” because “the officers’ photographs had been taken recently and were not yet included in the PCB File photograph books.” Officer Polo was employed by MDPD in 1999 and Officer Kahn in 1996. The explanation for the missing photographs does not justify their absence.
4. Sgt. Neymee Sanchez was responsive to Mr. Galban and conducted a thorough, detailed investigation.

Recommendations: The committee recommends that the Panel:

1. Commend Mr. Galban for his persistence and active involvement in the investigation and review of his complaint regarding criminal misconduct of the part of a police officer; and
2. Conclude the complaint.